

In re application of
Gregory M. Fahy
Application No.: 10/066,285
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Atty. Dkt. No. 074066-0115

REMARKS

Courtesies extended to Applicant's representatives during the telephone interview held February 9, 2005, are acknowledged with appreciation.

In accordance with the present invention, there are provided solutions useful for the liquid state hypothermic preservation of cells, tissues and organs. Invention compositions comprise a combination of defined concentrations of polyglycerol and defined concentrations of lactose. In a preferred embodiment, the combination of polyglycerol and lactose has a combined osmotic concentration in the range of 50 to 250 milliosmolal. Also provided herewith are methods for preservation of cells, tissues and organs employing invention compositions.

By the present communication, claims 1, 5, and 6 have been amended to define Applicant's invention with greater particularity. Additionally, claim 69, which depends upon claim 1, has been added to define Applicant's invention with greater particularity. No new matter is introduced by the proposed amendments as the amended claim language is fully supported by the specification and original claims. Entry of the proposed amendments is submitted to be proper because the proposed amendments place the claims in condition for allowance, or, at a minimum, place the case in better condition for appeal. Accordingly, Applicant respectfully requests entry of the proposed amendments to claims 1, 5 and 6 and new claim 69.

In view of the proposed amendments submitted herewith, claims 1-6, 36-57, 59-66, and 69 are currently pending with claims 1-6, 36 and 69 under active consideration. A complete listing of the claims, including an indication of the status thereof, is provided in the Listing of Claims beginning at page 2 of this communication.

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The present invention was the subject of a Restriction Requirement in the Office Action mailed July 2, 2003, which identified Groups I-XI. Claims 1-6 were acknowledged to be generic to Groups I-IX. Accordingly, prosecution has properly proceeded based on generic claims 1-6.

In view of the restated Election/Restriction requirement which appears at pp. 2-3 of the present Office Action, Applicant elects the Group I claims with traverse. Upon allowance of claims 1-6, rejoinder of the Group II-X claims, all of which depend from the Group I claims, is respectfully requested.

The provisional rejection of claims 1-6, 36 and 50 under the judicially created doctrine of obviousness-type double patenting over claims 6, 18, and 21 of copending Application No. 09/916,396 is respectfully traversed. However, in order to reduce the issues and expedite prosecution, a terminal disclaimer in compliance with 37 CFR § 1.130(b) is provided herewith, thus obviating this rejection.

The rejection of claims 1-6, 36 and 50 under 35 USC § 112, first paragraph, as allegedly failing to comply with the written description requirement, is respectfully traversed and has been rendered moot by the amendments submitted herewith.

In view of the above amendments and remarks, it is respectfully submitted that the present application is now in condition for allowance. Accordingly, reconsideration and favorable action on all claims is respectfully requested. In the event any issues remain to be

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resolved in view of this communication, the Examiner is invited to contact the undersigned at the telephone number given below so that a prompt disposition of this application can be achieved.

Respectfully submitted,

Date 2/16/05

By SEP E. L

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6711
Facsimile: (858) 792-6773

Stephen E. Reiter
Attorney for Applicant
Registration No. 31,192

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